THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 21271 OF 2005

29-09-2005

Between:

S.J.N.Avinash.

..... PETITIONER

AND

The APSRTC, rep. by its Regional Manager,

Visakhapatnam Region & Another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 21271 OF 2005

ORDER :

The petitioner is employed as a conductor in APSRTC. He was issued a Charge Sheet, dated 17.05.1996, alleging cash and ticket irregularities, and that he was required to submit the explanation as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation to the same. On a consideration of the same, the 2nd respondent passed an order, dated 22.08.1996, imposing the penalty of stoppage of annual increment for a period of one year with cumulative effect. The petitioner preferred an appeal before the appellate authority against that order. The same was rejected. Hence, this writ petition.

The only point urged by Sri S.M.Subhan, the learned counsel for the petitioner, is that the respondents imposed the penalty of stoppage of annual increment for a period of one year with cumulative effect, without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB*** and submits that stoppage of increment is a major penalty and it cannot be imposed, except by conducting departmental enquiry.

Ms.B.G.Uma Devi, learned Standing Counsel for A.P.S.R.T.C., on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the respondents imposed the penalty of stoppage of annual increment for a period of one year with cumulative effect on the basis of the charges levelled against the petitioner. Though the charge sheet was issued to the petitioner before the penalty was imposed, no departmental enquiry was conducted. I n ***KULWANTH SINGH GILL's case*** (1st supra), the Supreme Court held that stoppage of increments with cumulative effect, is a major penalty and it cannot be imposed, except by

conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the 2nd respondent to pass fresh orders. To avoid further delay and complication in the mater, this Court is of the view that the impugned order can be treated as the one for stoppage of annual increment without cumulative effect.

Hence, the writ petition is partly allowed, directing that the order, dated 22.08.1996, passed by the 2nd respondent shall be treated as the one for stoppage of annual increment without cumulative effect and that the petitioner shall not be entitled for any monetary benefits up to the date of this order. There shall be no order as to costs.

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29th SEPTEMBER, 2005

ajr